IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JAMES E. SLATE,)
Plaintiff,)
v.)) 1:04CV782
JOHN E. POTTER, Postmaster General, ROY L. MONTAGUE, Postmaster, and SHARON B. SINK, Supervisor,)))
Defendants.)

ORDER

Beaty, District Judge.

This matter is before the Court on a Motion for a Default Judgment [Document #14] filed by Plaintiff James E. Slate ("Plaintiff"), a Motion to Dismiss or for Summary Judgment [Document #18] filed by Defendants John E. Potter ("Defendant Potter"), Roy L. Montague ("Defendant Montague"), and Sharon B. Sink ("Defendant Sink"), and a cross-Motion for Summary Judgment filed by Plaintiff [Document #21]. On August 19, 2005, the United States Magistrate Judge's Order and Recommendation [Document #30] was filed and notice was served on the parties pursuant to 28 U.S.C. § 636(b). No objections were filed within the time period required by § 636. The Court has now reviewed the Order and Recommendation, and has made a determination in accord with the substance of the United States Magistrate Judge's rulings. The Magistrate Judge's Recommendation [Document #30] is therefore affirmed and adopted.

IT IS THEREFORE ORDERED that Plaintiff's Motion for a Default Judgment [Document #14] is DENIED. IT IS FURTHER ORDERED that the Motion to Dismiss or for Summary Judgment [Document #18] is GRANTED IN PART as to Defendant Montague and

Defendant Sink, and all claims against Defendant Montague and Defendant Sink are DISMISSED.

However, the Court notes that the Magistrate Judge's Order and Recommendation provided that all other issues raised in Defendants' Motion to Dismiss or for Summary Judgment [Document #18] and Plaintiff's cross-Motion for Summary Judgment [Document #21] be deferred until after discovery. Therefore, the remainder of Defendants' Motion to Dismiss or for Summary Judgment as to Defendant Potter [Document #18] and Plaintiff's cross-Motion for Summary Judgment [Document #21] are DENIED at this time, without prejudice to the parties refiling the motions in accordance with the Recommendation of the Magistrate Judge.

This, the <u>29th</u> day of September, 2005.

United States District Judge